

## Mishna - Mas. Ma'aseroth Chapter 1

MISHNAH 1. THEY HAVE LAID DOWN A GENERAL RULE CONCERNING TITHES:<sup>1</sup> WHATEVER IS [CONSIDERED] FOOD<sup>2</sup> AND IS GUARDED<sup>3</sup> AND GROWS OUT OF THE SOIL,<sup>4</sup> IS LIABLE TO TITHES.<sup>5</sup> AND THEY HAVE FURTHER LAID DOWN ANOTHER RULE [AS REGARDS TITHE]: WHATSOEVER IS CONSIDERED FOOD BOTH AT THE BEGINNING AND AT THE CONCLUSION [OF ITS GROWTH].<sup>6</sup> EVEN THOUGH HE WITHHOLDS IT FROM USE SO AS TO ENABLE THE QUANTITY OF FOOD TO INCREASE, IS LIABLE [TO TITHE]. WHETHER [IT BE GATHERED] IN ITS EARLIER OR LATER STAGES [OF RIPENING].<sup>7</sup> WHEREAS WHATSOEVER IS NOT CONSIDERED FOOD IN THE EARLIER STAGES [OF ITS GROWTH] BUT ONLY IN ITS LATER STAGES,<sup>8</sup> IS NOT LIABLE [TO TITHE] UNTIL IT CAN BE CONSIDERED FOOD.<sup>9</sup>

MISHNAH 2. WHEN DO THE FRUITS BECOME LIABLE TO TITHE?<sup>10</sup> FIGS FROM THE TIME THEY ARE CALLED BOHAL,<sup>11</sup> GRAPES AND WILD GRAPES IN THE EARLY STAGES OF RIPENING,<sup>12</sup> RED BERRIES AND MULBERRIES AFTER THEY BECOME RED; [SIMILARLY] ALL RED FRUITS, AFTER THEY BECOME RED. POMEGRANATES ARE LIABLE TO TITHE AFTER THEIR CORE BECOMES PULPY,<sup>13</sup> DATES AFTER THEY BEGIN TO SWELL,<sup>14</sup> PEACHES AFTER THEY ACQUIRE [RED] VEINS,<sup>15</sup> WALNUTS FROM THE TIME THEY FORM DRUPES.<sup>16</sup> R. JUDAH SAYS: WALNUTS AND ALMONDS, AFTER THEIR KERNEL SKINS HAVE BEEN FORMED.<sup>17</sup>

MISHNAH 3. CAROBS [ARE SUBJECT TO] TITHES AFTER THEY FORM DARK SPOTS.<sup>18</sup> SIMILARLY ALL BLACK-FINISHED FRUITS<sup>19</sup> AFTER THEY FORM DARK SPOTS; PEARS AND CRUSTUMENIAN PEARS,<sup>20</sup> QUINCES,<sup>21</sup> AND MEDLARS<sup>22</sup> [ARE LIABLE TO TITHES] AFTER THEIR SURFACE BEGINS TO GROW SMOOTH.<sup>23</sup> SIMILARLY ALL WHITE FRUITS,<sup>24</sup> AFTER THEIR SURFACE BEGINS TO GROW SMOOTH; FENUGREEK [IS LIABLE TO TITHE, WHEN IT IS SO FAR ADVANCED] THAT THE SEEDS [CAN BE PLANTED AND] WILL GROW,<sup>25</sup> GRAIN AND OLIVES AFTER THEY ARE ONE-THIRD RIPE.<sup>26</sup>

MISHNAH 4. WITH REGARD TO VEGETABLES,<sup>27</sup> CUCUMBERS, GOURDS, WATER-MELONS, CUCUMBER-MELONS,<sup>28</sup> APPLES AND CITRONS ARE LIABLE [TO TITHE], WHETHER GATHERED IN THE EARLIER OR LATER STAGES OF RIPENING.<sup>29</sup> R. SIMEON EXEMPTS THE CITRON IN THE EARLIER STAGES.<sup>30</sup> THE CONDITION IN WHICH BITTER ALMONDS ARE LIABLE [TO TITHE] IS EXEMPT IN THE CASE OF SWEET ALMONDS, AND THE CONDITION IN WHICH SWEET ALMONDS ARE LIABLE [TO TITHE] IS EXEMPT IN THE CASE OF BITTER ALMONDS.<sup>31</sup>

MISHNAH 5. WHEN ARE THE FRUITS FIXED TO BE TITHED?<sup>32</sup> CUCUMBERS AND GOURDS [ARE LIABLE TO TITHE] AFTER THEIR FRINGE<sup>33</sup> FALLS OFF, OR IF THIS DOES NOT FALL OFF, AFTER [THE FRUIT] HAS BEEN PILED UP; MELONS SO SOON AS THEY BECOME SMOOTH,<sup>34</sup> AND IF THEY HAVE NOT BECOME SMOOTH, AFTER THEY ARE STORED AWAY;<sup>35</sup> VEGETABLES WHICH ARE TIED IN BUNDLES,<sup>36</sup> FROM THE TIME THEY ARE TIED UP IN BUNDLES; IF THEY ARE NOT TIED UP IN BUNDLES, AFTER THE VESSEL HAS BEEN FILLED WITH THEM;<sup>37</sup> IF THE VESSEL IS NOT TO BE FILLED WITH THEM, AFTER THERE HAS BEEN GATHERED ALL THAT HE WISHES TO GATHER. [PRODUCE WHICH IS PACKED IN] A BASKET [IS LIABLE TO TITHE] AFTER IT HAS BEEN COVERED;<sup>38</sup> IF IT IS NOT TO BE COVERED, AFTER A VESSEL IS FILLED; IF A VESSEL IS NOT TO BE FILLED, AFTER HE HAS GATHERED ALL HE REQUIRES. WHEN DOES THIS REGULATION APPLY?<sup>39</sup> WHEN A MAN BRINGS [THE PRODUCE] TO THE MARKET, BUT WHEN HE BRINGS IT TO HIS OWN HOUSE, HE MAY MAKE A CHANCE

MEAL OF IT, UNTIL HE REACHES HIS HOUSE.

MISHNAH 6. DRIED SPLIT-POMEGRANATES, RAISINS AND CAROBS, ARE LIABLE [TO TITHE] AFTER THEY ARE STACKED; ONIONS, AFTER THEY ARE STRIPPED;<sup>40</sup> IF THEY ARE NOT STRIPPED, AFTER THEY ARE STACKED; GRAIN, AS SOON AS THE PILE HAS BEEN EVENED;<sup>41</sup> IF IT IS NOT EVENED, AFTER IT HAS BEEN STACKED; PULSE, AFTER IT HAS BEEN SIFTED;<sup>42</sup> IF IT IS NOT SIFTED, AFTER THE PILE HAS BEEN EVENED. EVEN AFTER THE PILE HAS BEEN EVENED, HE MAY [WITHOUT TITHING] TAKE OF THE TINY EARS,<sup>43</sup> FROM THE SIDES OF THE PILES, AND FROM THAT WHICH IS STILL IN THE HUSK, AND EAT.<sup>44</sup>

MISHNAH 7. WINE [IS LIABLE TO TITHE] AFTER IT HAS BEEN SKIMMED,<sup>45</sup> BUT ALTHOUGH IT HAS BEEN SKIMMED, HE MAY TAKE FROM THE UPPER WINE-PRESS,<sup>46</sup> OR FROM THE DUCT,<sup>47</sup> AND DRINK THEREOF [WITHOUT GIVING TITHE]. OIL, AFTER IT HAS DRIPPED INTO THE TROUGH,<sup>48</sup> BUT EVEN AFTER IT HAS DRIPPED HE MAY STILL TAKE OF THE OIL FROM THE BALE,<sup>49</sup> OR FROM THE PULP [UNDER THE PRESS],<sup>50</sup> OR FROM BETWEEN THE BOARDS OF THE PRESS,<sup>51</sup> [WITHOUT TITHING,] AND PUT THE OIL ON A CAKE,<sup>52</sup> OR PLATE,<sup>53</sup> BUT NOT IN A DISH OR STEWPOT, WHILE THE CONTENTS THEREOF ARE BOILING.<sup>54</sup> R. JUDAH SAYS: HE MAY PUT IT INTO ANYTHING<sup>55</sup> SAVE IN TO THAT WHICH CONTAINS VINEGAR OR BRINE.<sup>56</sup>

MISHNAH 8. A CAKE OF PRESSED FIGS [IS LIABLE TO TITHE] FROM THE MOMENT ITS SURFACE HAS BEEN SMOOTHED.<sup>57</sup> IT MAY BE SMOOTHED WITH [THE JUICE OF] UNTITHED FIGS OR GRAPES,<sup>58</sup> BUT R. JUDAH FORBIDS THIS. IF IT IS SMOOTHED WITH GRAPES, IT IS NOT SUSCEPTIBLE TO [RECEIVE] LEVITICAL UNCLEANNESS,<sup>59</sup> R. JUDAH, HOWEVER, SAYS, IT IS SUSCEPTIBLE.<sup>60</sup> DRIED FIGS [ARE LIABLE TO TITHE] AFTER THEY HAVE BEEN TRODDEN,<sup>61</sup> AND [FIGS] STORED IN A BIN [ARE LIABLE TO TITHE] AFTER THEY HAVE BEEN PRESSED. IF ONE WAS TREADING [THE FIGS] INTO A JAR, OR PRESSING THEM IN A STORE BIN, AND THE CASK WAS BROKEN OR THE STORE BIN OPENED, IT IS NOT ALLOWED TO MAKE A CHANCE MEAL OF THEM; R. JOSE, HOWEVER, PERMITS THIS.

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(1) V. Introduction. The ruling here also applies to terumah.

(2) This excludes e.g., madder, although in times of dire necessity both are used as food.

(3) In contradistinction to ownerless property, looked after by no private owner.

(4) This excludes such things as mushrooms and truffles, which are not deemed to be things growing from the soil, since they are not sown. In all these cases the ruling is deduced from Deut. XIV, 22, Thou shalt surely tithe all the produce of thy seed, identifying 'produce' with food; 'thy seed', with privately owned produce, and 'seed' with earth-sown produce.

(5) The whole of this paragraph refers to what are technically known as 'regular' meals in contradistinction to 'chance' meals, to which this ruling does not apply.

(6) As for example, all herbs which become fit for consumption as soon as they begin to ripen. The owner nevertheless withholds them from being gathered until they are fully ripe, so as to enable him to accumulate the maximum quantity of produce.

(7) Since they are considered as food, fit to be eaten, from the very beginning of their ripening. Lit., 'whether small or large'.

(8) As for example, certain kinds of fruit which grow on trees.

(9) Derived from Lev. XXVII, 30. From the seed of the earth, from the fruit of the tree, which is interpreted to mean that it is not to be considered food until it grows up and becomes fruit proper.

(10) Fruit, that is to say, which in the early stages of its growth is not considered a food, and which is also eaten at regular times.

(11) The commencement of the ripening is known as **בוהל**. Rashi: From the time their tips become white.

(12) They have reached that stage of ripeness when the berries appear from inside the husks. In the case of a cluster, if

one berry has reached this measure of ripeness, the whole of the cluster is liable to tithe.

(13) When the eatable portion, the core, can be mashed under one's fingers.

(14) Lit., 'they cast a dough'. When they rise like dough.

(15) When there appears in the skin a sort of red vein.

(16) Lit., 'they form a store'. When the food is actually separated from the outer shell, and gives the appearance of something laid in a store-house.

(17) R. Judah refers to a thin skin nearest to the food, which does not form upon the fruit until after the completion of the ripening.

(18) They begin to darken at the completion of their ripening.

(19) This refers to all fruits which are black on the completion of their ripening, eg., the berries of the myrtle and thorn.

(20) Small pears resembling nuts. These have hair on them which needs smoothening.

(21) V. Kil. I, 4.

(22) A sort of crab-apple.

(23) After the hair upon them, which covers them in the earlier stages of ripening, falls out. These fruits in their early stages are covered with small hairs, like feathers, and as they ripen they gradually become bald, so that eventually when they are completely ripe, all their hair has fallen out.

(24) The law does not specifically apply only to those which are actually white, but it also includes those which are neither black nor red.

(25) Namely when it has become so complete in its ripeness that if it were seed, it would sprout forth. The method of testing to discover when it had reached this stage is by putting the plant in water.

(26) A third part of that which will eventually grow, or alternately, if he were to store them or in the case of grain to grind them) he would be able to produce from them, at that stage, one third of the amount which will be produced when they are fully ripe.

(27) The four species of vegetables enumerated here.

(28) An apple-shaped melon.

(29) Since both in their earlier and later stages they are considered to be food. Lit., 'whether large or small'.

(30) Since he holds that they are not eaten at this stage.

(31) Bitter almonds are gathered and eaten at their earlier stages, not at their later. With sweet almonds the reverse is the case.

(32) To forbid even a chance meal. Lit., 'when is their threshing-floor (condition) for tithes'. In the case of corn, the tithing-season begins after the produce has been stacked on the threshing-floor.

(33) In the early stages of ripening there is a woolly substance on their surface; when fully ripe this falls off.

(34) By the loss of their woolly substance on the surface.

(35) Lit 'made into a store'. When they have been spread out to be dried. Melons are not piled up but spread out.

(36) That which it is customary to sell in bundles.

(37) If a man customarily fills many vessels from his field, he may eat a chance meal until the last vessel has been filled.

(38) It was customary to cover the fruits with the leaf of a tree when taken to the market so that they should not wither.

(39) When do the above conditions concerning the season for tithing hold good?

(40) After the bad peel has been taken off.

(41) After the produce has been cleansed from its chaff, it is heaped up and levelled.

(42) Since it is usual to uproot the pulse with dust, it is therefore necessary to sift it in a sieve in order to cleanse it.

(43) Plucked ears of corn not well threshed.

(44) Since all these latter things are as yet not ready for tithe.

(45) From the time that he removes the kernels and the husks which rise to the surface of the wine on its fermenting.

(46) From the wine which has not yet gone into the press tank.

(47) Formed in the mouth of the wine-press from which the wine flows into the press tank. The wine which is still in the upper wine-press or in the duct is as yet not completely ready for use.

(48) The cavity into which the oil drips.

(49) The meaning of this Hebrew word is obscure; Jast. translates: 'A bale of loose texture containing the olive pulp to be pressed'. Bert.: 'A vessel made of ropes in which the olives are heaped up during the time they lay the press-beam upon them'. Tif. Yis: A perforated basket into which the pressed-out olives are placed when they are gathered together. The oil creeps and oozes out from the holes in the basket.

- (50) The upper millstone with which they grind the olives (Bert.). The stone placed in the basket to press upon the olives and to squeeze them (Tif. Yis.).
- (51) The oil which comes out from between the boards.
- (52) A small, thin and hot cake which, when taken out of the oven, used to be smoothed with oil over its face. This last statement is made to teach us that the cake is not considered in the category of 'cooked' dishes, since generally it is forbidden to eat a chance meal from all produce, fruits and vegetables, cooked by the fire.
- (53) A large dish upon which there is hot cooking.
- (54) Even though he has removed them from the fire.
- (55) He may put it into all boiling pots and dishes, after he has removed it from the fire, and it is still not liable to tithe.
- (56) Brine-water which issues from salted fish or meat. The sharpness of these two ingredients, vinegar and brine, aids considerably in the cooking process.
- (57) It is customary to smoothen its surface with juice in order to beautify it. Then, and then only, does the tithing stage begin.
- (58) Since juices used for smoothing purposes are considered of no consequence. R. Judah, however, holds the contrary view, and therefore, since their fruit is untithed, they are forbidden.
- (59) V. Lev. XI, 34, 38. This refers only to grapes and not to figs, since fig-juice does not render food susceptible to uncleanness.
- (60) The dispute between R. Judah and the other authorities is as to whether the juice is to be considered liquid or not.
- (61) The figs are dried and then are trodden with staves in a vessel, or are pressed with the hands in the store-house.

## Mishna - Mas. Ma'aseroth Chapter 2

MISHNAH 1. IF A MAN WAS PASSING THROUGH THE STREET,<sup>1</sup> AND SAID 'TAKE YE OF MY FIGS', ONE MAY EAT AND BE EXEMPT FROM TITHE;<sup>2</sup> THEREFORE IF<sup>3</sup> THEY BROUGHT THEM INTO THEIR HOUSES,<sup>4</sup> THEY MUST GIVE THE PRIESTLY DUES AS IF THEY WERE CERTAINLY UNTITHED. [IF HE SAID] TAKE YE AND BRING INTO YOUR HOUSES',<sup>5</sup> THEY MAY NOT MAKE A CHANCE MEAL OF THEM.<sup>6</sup> THEREFORE, IF THEY BROUGHT THEM INTO THEIR HOUSES, THEY NEED TITHE THEM ONLY AS DEMAI.<sup>7</sup>

MISHNAH 2. IF MEN WERE SITTING IN A DOORWAY OR A SHOP, AND HE<sup>8</sup> SAID, 'TAKE YE OF MY FIGS',<sup>9</sup> THEY MAY EAT AND BE EXEMPT FROM TITHES,<sup>10</sup> BUT THE OWNER OF THE DOORWAY, OR THE OWNER OF THE SHOP, IS LIABLE [TO GIVE TITHE]. R. JUDAH, HOWEVER, EXEMPTS HIM<sup>11</sup> UNLESS HE TURNS HIS FACE<sup>12</sup> OR CHANGES THE PLACE WHERE HE WAS SITTING [AND SELLING].<sup>13</sup>

MISHNAH 3. IF A MAN BRINGS FRUIT FROM GALILEE TO JUDEA,<sup>14</sup> OR IF HE GOES UP TO JERUSALEM, HE MAY EAT OF THEM,<sup>15</sup> UNTIL HE ARRIVES AT THE PLACE TO WHICH HE INTENDS TO GO;<sup>16</sup> AND SO, ALSO, IF HE RETURNS.<sup>17</sup> R. MEIR, HOWEVER, SAYS: [HE MAY EAT] ONLY UNTIL HE REACHES THE PLACE WHERE HE INTENDS TO REST [ON THE SABBATH].<sup>18</sup> BUT PEDLARS WHO GO ABOUT THE CITIES,<sup>19</sup> MAY EAT,<sup>20</sup> UNTIL THEY REACH THE PLACE WHERE THEY INTEND STAYING OVER NIGHT.<sup>21</sup> R. JUDAH SAYS: 'THE FIRST HOUSE [HE REACHES] IS HIS HOUSE'.<sup>22</sup>

MISHNAH 4. IF ONE SET ASIDE THE TERUMAH FROM FRUITS BEFORE THEIR WORK WAS FINISHED,<sup>23</sup> R. ELIEZER SAYS: IT IS FORBIDDEN TO MAKE A CHANCE MEAL OF THEM,<sup>24</sup> BUT THE SAGES PERMIT IT<sup>25</sup> EXCEPT WHEN IT IS A BASKET OF FIGS. IF ONE SET ASIDE THE TERUMAH FROM A BASKET OF FIGS, R. SIMEON PERMITS IT,<sup>26</sup> BUT THE SAGES FORBID IT.<sup>27</sup>

MISHNAH 5. IF A MAN SAYS TO HIS FELLOW: 'HERE IS THIS ISSAR,<sup>28</sup> GIVE ME FIVE FIGS FOR IT', HE MAY NOT EAT OF [THEM] UNTIL HE HAS TITHED THEM;<sup>29</sup> SO R. MEIR. R. JUDAH SAYS: IF HE ATE THEM ONE BY ONE, HE IS EXEMPT, BUT IF SEVERAL

TOGETHER,<sup>30</sup> HE IS LIABLE [TO TITHE.] R. JUDAH SAID: IT HAPPENED IN A ROSE-GARDEN IN JERUSALEM THAT THERE WERE FIGS BEING SOLD THREE OR FOUR FOR AN ISSAR,<sup>31</sup> AND NEITHER TERUMAH NOR TITHE WAS EVER GIVEN FROM IT.<sup>32</sup>

MISHNAH 6. IF A MAN SAID TO HIS FELLOW: 'HERE IS AN ISSAR FOR TEN FIGS WHICH I MAY SELECT FOR ME',<sup>33</sup> HE MAY SELECT AND EAT;<sup>34</sup> [IF HE SAID] 'FOR A CLUSTER OF GRAPES WHICH I MAY SELECT FOR ME', HE MAY PICK GRAPES FROM THE CLUSTER AND EAT;<sup>35</sup> [IF HE SAID], 'FOR A POMEGRANATE WHICH I MAY SELECT FOR ME', HE MAY SPLIT<sup>36</sup> [THE POMEGRANATE] AND EAT [A SLICE]; [IF HE SAID] 'FOR A WATER-MELON, WHICH I MAY SELECT FOR ME', HE MAY SLICE AND EAT;<sup>37</sup> IF HE, HOWEVER, SAID 'FOR THESE TWENTY FIGS', OR 'FOR THESE TWO CLUSTERS', OR 'FOR THESE TWO WATER-MELONS', HE MAY EAT THEM IN HIS USUAL WAY AND BE EXEMPT [FROM TITHE], BECAUSE HE BOUGHT THEM WHILST THEY WERE STILL ATTACHED TO THE GROUND.<sup>38</sup>

MISHNAH 7. IF A MAN HIRED A LABOURER TO HELP HIM HARVEST FIGS,<sup>39</sup> AND HE [THE LABOURER] SAID UNTO HIM 'ON CONDITION THAT I MAY EAT THE FIGS', HE MAY EAT THEM AND BE EXEMPT [FROM TITHE].<sup>40</sup> IF HE, HOWEVER, SAID, 'ON CONDITION THAT I AND MY SON MAY EAT',<sup>41</sup> OR 'THAT MY SON MAY EAT OF THEM IN LIEU OF MY RECEIVING A WAGE',<sup>42</sup> HE MAY EAT AND BE EXEMPT [FROM TITHE], BUT IF HIS SON EATS HE IS LIABLE. IF HE SAID: 'ON CONDITION THAT I MAY EAT OF THEM DURING THE TIME OF THE FIG HARVEST, AND AFTER THE FIG HARVEST', DURING THE TIME OF THE FIG HARVEST HE MAY EAT AND BE EXEMPT [FROM TITHE], BUT IF HE EATS AFTER THE FIG HARVEST HE IS LIABLE, SINCE HE DOES NOT EAT OF THEM AFTER THE MANNER PRESCRIBED BY THE TORAH.<sup>43</sup> THIS IS THE GENERAL RULE: ONE WHO EATS AFTER THE MANNER PRESCRIBED BY THE TORAH IS EXEMPT [FROM TITHE], AND ONE WHO DOES NOT EAT AFTER THE MANNER PRESCRIBED BY THE TORAH IS LIABLE.<sup>44</sup>

MISHNAH 8. IF A MAN IS DOING [HIRED LABOUR] AMONG POOR FIGS, HE MAY NOT EAT OF GOOD FIGS,<sup>45</sup> AND IF HE IS DOING [HIRED LABOUR] AMONG GOOD FIGS, HE MAY NOT EAT OF THE POOR FIGS, BUT HE MAY RESTRAIN HIMSELF UNTIL HE REACHES THE PLACE WHERE THERE ARE THE BETTER FIGS,<sup>46</sup> AND THEN HE MAY EAT. IF A MAN EXCHANGES WITH HIS FELLOW EITHER HIS FRESH FIGS FOR HIS FRESH FIGS,<sup>47</sup> HIS DRIED FIGS FOR HIS DRIED FIGS,<sup>48</sup> HIS FRESH FIGS FOR HIS DRIED FIGS, THEN HE IS LIABLE TO GIVE TITHE.<sup>49</sup> R. JUDAH, HOWEVER, SAYS: IF A MAN EXCHANGES [HIS FIGS] FOR [HIS FELLOW'S] FRESH FIGS HE IS LIABLE, BUT [IF FOR THE OTHER'S] DRIED FIGS HE IS EXEMPT.<sup>50</sup>

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(1) The statement speaks of an 'am ha-arez who is suspected of not having given his tithe, and also of fruit which is not being taken to be sold.

(2) Because we can say they have not been taken indoors, and therefore, the time has not yet arrived when they are liable to tithe; v. supra I, 5.

(3) Since he uses only this phrase 'Take' in his statement, implying a chance meal.

(4) The man who gave them had not tithed them, thinking they were going to eat them in the street, which does not require tithing. From the moment, however, that they are taken indoors, they are liable to tithe. In this case, they give the tithe of tithe which the Levite owes to the priest (תרומת מעשר) v. Num. XVIII, 26; the first tithe (מעשר ראשון) belonging to the Levite; the second tithe (מעשר שני) to be consumed by the owner in Jerusalem (v. Deut. XIV, 23) they may keep for themselves.

(5) Thus indicating that they may be eaten, even in the house, as having been tithed, after having become liable to tithe.

(6) The man is believed in so far that the produce had reached the stage when it became liable to tithe, and consequently forbidden even for a chance meal, but he is not believed that the tithe had been taken from them.

- (7) v. Glos.
- (8) The owner of the doorway or the ship, who was carrying fruit.
- (9) Which I have in the street; because if they were in the doorway or shop they would become liable, as if they were in the house.
- (10) Since a man's house renders produce liable to tithe only as far as he is concerned.
- (11) R. Judah holds that since a doorway or shop is a place where he will be ashamed to eat, it is not regarded as a courtyard or house which renders produce liable to tithe.
- (12) Enabling him to eat without feeling ashamed.
- (13) Even though his face is turned towards his buyers, by changing his position he indicates his desire to find a place where he can eat unashamed.
- (14) He gathered them in his field in Galilee with the intention of taking them up to Judea and selling them there.
- (15) A chance meal without tithing.
- (16) Even if he stops on the way, he is still exempt from giving tithe, because it is his intention to sell them only in Judea.
- (17) If before he reached Judea he decided to take them back to Galilee, he may make a chance meal of them until he reaches Galilee again.
- (18) That is to say until he has brought them into the house where he intends to rest on Sabbath, and as soon as he reaches his destination, and even though Sabbath has not yet arrived, he is liable to give tithe.
- (19) To sell spices and other perfumery of women; and they carry with them at the same time fruit which has been given to them, but which has not yet been tithed.
- (20) A chance meal, until they reach their destination, and then the fruit is liable to tithe.
- (21) He is only liable when they have been actually brought into the house.
- (22) As regards the law of tithes. Because as soon as the man reaches the city he will enter the first house he can find with the intention of staying there. Therefore, even although ultimately he does not settle with the owner of the house to stay in this particular house, he has, by bringing his fruit into this house, made it liable to tithe.
- (23) The season has not yet been reached when they are liable to tithe, as defined supra I.
- (24) Until all the tithes have been separated. because he holds the view that the setting aside of terumah fixes the liability of fruit tithes, even though they are not yet fully finished.
- (25) They do not accept R. Eliezer's principle.
- (26) Because the tithing season in this case begins only after all the fruit has been gathered or as much as is required; V. supra I, 5.
- (27) Because once the terumah has been set aside from the basket, it is indicative that all that is needful has been gathered.
- (28) V. Glos.
- (29) Because the sale fixes liability to tithing.
- (30) If the owner of the garden gives him two or more, at the same time, he is liable to tithe, because these constitute for him an immature threshing-floor.
- (31) Here the seller used to gather them, since he would allow no buyers to enter the garden on account of the roses.
- (32) Since they eat them one by one.
- (33) Which I may select and gather from the trees.
- (34) He may pluck them one by one, and eat without tithing. If, however, he plucked two together he is liable to give tithe.
- (35) He may gather the single berries from the cluster which he has chosen and eat. The cluster itself must be attached to the ground, otherwise even under these conditions he is liable.
- (36) While the pomegranate is still attached to the ground he may eat it slice by slice
- (37) He may cut off separate thin slices from the fruit whilst it is attached in the ground
- (38) Since he bought that which was attached to the ground his is the same ruling as that if the owner of the garden who may eat a chance meal until he reaches his house (v. supra I, 5). For the sale does not fix the liability to tithe in that which is attached to the ground.
- (39) Either to cut them or to store them for drying.
- (40) The condition does not invalidate anything normally observed, since even without this stipulation he is legally entitled to eat, according to Deut. XXIII, 25: 'If thou shalt come to the vineyard of thy friend and thou shalt eat grapes'

etc., which verse refers to a workman. It is therefore not like a sale and does not therefore fix liability to tithing.

(41) The eating by the son constitutes a sale and therefore fixes the liability in tithing.

(42) In lieu of wages for my work, and instead of my eating.

(43) Since his status is then not one of a workman, he eats on the basis of a condition, and hence it is like a sale.

(44) V. B.M. 87b as to what work entitles the labourer to eat.

(45) Deduced from Deut. XXIII, 25. V. supra p. 264, n. 6.

(46) The labourer who harvests both amongst poor and good figs restrains himself from eating whilst working amongst the poor figs, and then when he arrives at the good figs, he may eat even the amount due to him from the previous poor figs.

(47) Lit., 'the one to eat, and the one to eat'. If he says, you eat my fresh figs and I yours.

(48) Lit., 'the one to store' etc.. A similar stipulation with regard to figs spread out to dry.

(49) Since the exchange is considered equivalent to the sale.

(50) R. Judah holds that a sale does not fix liability to tithe in regard to anything the work of which is unfinished, as in the case of figs stored for drying.

### **Mishna - Mas. Ma'aseroth Chapter 3**

MISHNAH 1. IF A MAN WAS TAKING HIS FIGS THROUGH HIS COURTYARD TO BE DRIED,<sup>1</sup> HIS CHILDREN AND THE OTHER MEMBERS OF HIS HOUSEHOLD<sup>2</sup> MAY EAT [OF THEM] AND BE EXEMPT [FROM TITHE].<sup>3</sup> THE LABOURERS<sup>4</sup> [WHO WORK] WITH HIM MAY EAT,<sup>5</sup> AND BE EXEMPT<sup>6</sup> SO LONG AS HE IS NOT OBLIGED TO MAINTAIN THEM;<sup>7</sup> IF, HOWEVER, HE IS OBLIGED TO MAINTAIN THEM,<sup>8</sup> THEY MAY NOT EAT.<sup>9</sup>

MISHNAH 2. IF A MAN BROUGHT HIS LABOURERS INTO THE FIELD,<sup>10</sup> SO LONG AS HE IS NOT OBLIGED TO MAINTAIN THEM, THEY MAY EAT AND BE EXEMPT FROM TITHES.<sup>11</sup> IF, HOWEVER, HE IS OBLIGED TO MAINTAIN THEM THEY MAY EAT OF THE FIGS ONE AT A TIME,<sup>12</sup> BUT NOT FROM THE BASKET, NOR FROM THE LARGE VESSELS, NOR FROM THE DRYING SHED.<sup>13</sup>

MISHNAH 3. IF A MAN HIRED A WORKMAN TO PREPARE HIS OLIVES<sup>14</sup> AND HE SAID TO HIM, 'ON CONDITION THAT I MAY EAT THE OLIVES',<sup>15</sup> HE MAY EAT OF THEM ONE AT A TIME AND BE EXEMPT [FROM TITHE]. IF, HOWEVER, HE ATE SEVERAL TOGETHER HE IS LIABLE. [IF HE HAD BEEN HIRED] TO WEED OUT ONIONS,<sup>16</sup> AND HE SAID TO HIM, 'ON CONDITION THAT I MAY EAT THE VEGETABLES', HE MAY PLUCK LEAF BY LEAF,<sup>17</sup> AND EAT [WITHOUT TITHING]; IF, HOWEVER, HE ATE SEVERAL TOGETHER, HE IS LIABLE [TO GIVE TITHE].<sup>18</sup>

MISHNAH 4. IF A MAN FOUND CUT FIGS<sup>19</sup> ON THE ROAD, OR EVEN BESIDE A FIELD [WHERE CUT FIGS] HAVE BEEN SPREAD [TO DRY] (AND SO, TOO, IF A FIG TREE OVERHANGS THE ROAD, AND FIGS WERE FOUND BENEATH IT). THEY ARE ALLOWED [AS NOT COMING WITHIN THE LAW] OF ROBBERY,<sup>20</sup> AND THEY ARE EXEMPT FROM TITHE;<sup>21</sup> OLIVES AND CAROBS, HOWEVER, ARE LIABLE.<sup>22</sup> IF A MAN FOUND DRIED FIGS, THEN IF THE MAJORITY OF PEOPLE HAD ALREADY TRODDEN [THEIR FIGS].<sup>23</sup> HE IS LIABLE [TO TITHE], BUT IF NOT HE IS EXEMPT. IF A MAN FOUND SLICES OF FIG-CAKE<sup>24</sup> HE IS LIABLE [TO TITHE]. SINCE IT IS OBVIOUS THEY COME FROM SOMETHING [THE WORK IN CONNECTION THEREWITH IS] FULLY COMPLETED. WITH CAROBS,<sup>25</sup> IF THEY HAD NOT YET BEEN ON THE TOP OF THE ROOF, HE MAY TAKE SOME DOWN FOR THE CATTLE<sup>26</sup> AND BE EXEMPT [FROM TITHE]. SINCE HE MAY RETURN THAT WHICH IS LEFT OVER.<sup>27</sup>

MISHNAH 5. WHICH COURTYARD IS IT WHICH MAKES [THE PRODUCE] LIABLE TO TITHE.<sup>28</sup> R. ISHMAEL SAYS: THE TYRIAN YARD [WITH A LODGE AT THE ENTRANCE].<sup>29</sup>

WHEREIN WATCH IS KEPT OVER THE VESSELS. R. AKIBA SAYS: ANY YARD WHICH ONE PERSON MAY OPEN AND ANOTHER MAY SHUT [AS THEY PLEASE],<sup>30</sup> IS EXEMPT. R. NEHEMIAH SAYS: ANY YARD IN WHICH A MAN IS NOT ASHAMED TO EAT, IS LIABLE. R. JOSE SAYS: ANY YARD INTO WHICH A PERSON<sup>31</sup> MAY ENTER, AND ONE DOES NOT SAY UNTO HIM, WHAT ARE YOU SEEKING? IS EXEMPT.<sup>32</sup> R. JUDAH SAYS: 'IF THERE ARE TWO YARDS ONE WITHIN THE OTHER, THE INNER ONE MAKES [THE PRODUCE] LIABLE [TO TITHE], THE OUTER ONE IS EXEMPT'.<sup>33</sup>

MISHNAH 6. ROOFS DO NOT RENDER [PRODUCE] LIABLE, EVEN THOUGH THEY BELONG TO A COURTYARD WHICH RENDERS IT LIABLE.<sup>34</sup> A GATEWAY,<sup>35</sup> PORTICO,<sup>36</sup> OR BALCONY,<sup>37</sup> IS CONSIDERED [IN THE SAME CATEGORY] AS THE COURTYARD [TO WHICH IT BELONGS]; IF THIS MAKES [PRODUCE] LIABLE [TO TITHE] SO DO THEY, AND IF IT DOES NOT, THEY DO NOT.

MISHNAH 7. CONE-SHAPED HUTS,<sup>38</sup> THE STORES IN TURRETS,<sup>39</sup> AND SHEDS IN THE FIELD<sup>40</sup> DO NOT RENDER [PRODUCE] LIABLE; THE LODGE OF GENESARETH GARDENS,<sup>41</sup> EVEN THOUGH IT CONTAINS HANDMILL AND POULTRY,<sup>42</sup> DOES NOT RENDER [PRODUCE] LIABLE. AS FOR THE POTTER'S HUT,<sup>43</sup> THE INNER PART RENDERS [PRODUCE] LIABLE, THE OUTER PART DOES NOT. R. JOSE SAYS: ANYTHING WHICH IS NOT BOTH A SUMMER AND WINTER DWELLING DOES NOT RENDER [PRODUCE] LIABLE [TO TITHES].<sup>44</sup> AS REGARDS THE FESTIVE BOOTHS USED ON THE FESTIVAL, R. JUDAH SAYS: THIS ALSO RENDERS [PRODUCE] LIABLE TO TITHE,<sup>45</sup> BUT THE SAGES SAY: IT DOES NOT.

MISHNAH 8. IF A FIG TREE STOOD IN A COURTYARD,<sup>46</sup> A MAN MAY EAT THE FIGS FROM IT SINGLY AND BE EXEMPT [FROM TITHE], BUT IF HE TOOK TWO OR MORE TOGETHER HE IS LIABLE. R. SIMEON SAYS: [EVEN] IF HE HAS [AT ONE AND THE SAME TIME] ONE IN HIS RIGHT HAND, ONE IN HIS LEFT HAND AND ONE IN HIS MOUTH, HE IS STILL EXEMPT.<sup>47</sup> IF HE ASCENDED TO THE TOP [OF IT],<sup>48</sup> HE MAY FILL HIS BOSOM AND EAT.<sup>49</sup>

MISHNAH 9, IF A VINE WAS PLANTED IN A COURTYARD, A MAN MAY TAKE A WHOLE CLUSTER.<sup>50</sup> SIMILARLY WITH A POMEGRANATE, OR A MELON. SO R. TARFON. R. AKIBA SAYS: HE SHOULD PICK SINGLE BERRIES FROM THE CLUSTER,<sup>51</sup> OR SPLIT THE POMEGRANATE INTO SLICES, OR CUT SLICES OF MELON. IF CORIANDER WAS SOWN IN A COURTYARD HE MAY PLUCK LEAF BY LEAF AND EAT [WITHOUT TITHING], BUT IF HE ATE THEM TOGETHER HE IS LIABLE [TO GIVE TITHE]. SAVORY AND HYSSOP, AND THYME<sup>52</sup> WHICH ARE IN THE COURTYARD,<sup>53</sup> IF KEPT WATCH OVER, ARE LIABLE TO TITHE.<sup>54</sup>

MISHNAH 10. IF A FIG TREE STOOD IN A COURTYARD, AND OVERHUNG A GARDEN, A MAN MAY EAT AFTER HIS CUSTOMARY FASHION<sup>55</sup> AND BE EXEMPT [FROM TITHE]. IF, HOWEVER, IT STOOD IN THE GARDEN AND OVERHUNG THE COURTYARD, A MAN MAY EAT [THE FIGS] SINGLY<sup>56</sup> AND BE EXEMPT, BUT IF HE TAKES TWO OR MORE TOGETHER, HE IS LIABLE [TO TITHES]. IF IT STOOD IN THE LAND [OF ISRAEL] AND OVERHUNG [THE TERRITORY] OUTSIDE THE LAND, OR IF IT STOOD IN [THE TERRITORY] OUTSIDE THE LAND, AND OVERHUNG THE LAND, IN ALL THESE CASES [THE LAW IS] DECIDED ACCORDING TO THE POSITION OF THE ROOT.<sup>57</sup> AND AS REGARDS HOUSES IN WALLED CITIES, EVERYTHING IS DECIDED ACCORDING TO THE POSITION OF THE ROOT.<sup>58</sup> BUT AS REGARDS CITIES OF REFUGE, EVERYTHING IS DECIDED [ALSO] ACCORDING TO THE LOCATION OF THE BRANCHES.<sup>59</sup> AND ALSO IN WHAT CONCERNS JERUSALEM,<sup>60</sup> EVERYTHING IS [ALSO] DECIDED BY THE



## LOCATION OF THE BRANCHES.<sup>61</sup>

- (1) He was taking them through his courtyard to the place where they were to be dried.
- (2) His wife.
- (3) Because a courtyard does not fix the liability to tithing any produce the work of which is not complete. Nevertheless he himself is still forbidden to make a chance meal of them, without tithing, except in the place where they are to be dried, where it is evident that the work in connection with the figs has not been completed.
- (4) Whom he has hired to take the fruit through the courtyard. Then it is a work which does not entitle them to eat; v. supra II, 7.
- (5) If he offered the fruit to them.
- (6) A gift, unlike a sale, does not fix liability to tithing; v. supra II, 2.
- (7) Lit., 'their food is not upon him'. So long as he has not stipulated that he will maintain them.
- (8) He stipulated he would maintain them.
- (9) For this is like a sale.
- (10) For some other work, and not to gather fruits, and therefore, not entitled Biblically to eat.
- (11) If he gave unto them, because a gift does not follow the same ruling as a sale.
- (12) Which is a casual meal and permissible even in the case of a sale, unless the work in connection with the produce had been completed.
- (13) In these cases it is treated as produce taken to the market, which is in itself sufficient to fix 'liability to tithing; v. supra I, 5.
- (14) To hoe beneath the olives, but not to gather, and therefore not entitled to eat according to the Biblical law.
- (15) This is equivalent to a sale.
- (16) To weed out the bad herbs which grow beneath the onions. This also does not entitle him to eat Biblically.
- (17) Singly, from that which is joined to the ground.
- (18) The combination of several together constitutes a kind of threshing-floor and fixes liability to tithing; v. supra II, 5.
- (19) קציצות , figs partly dried. The development in the growth of figs is as follows: When they are plucked from the tree and are still juicy they are called in Hebrew תאנים ; after this, when they are laid upon mats of reed grass to be dried, and their surface contracts a little when they begin to dry they are called קציעות or קציצות .Then when they are altogether dried they are called גרוגרות ,and finally, when they are trodden into a round cake they are called דבילה .The vessel in which the figs are dried is called מוקצה .
- (20) Because when a fig falls it is spoilt and the owners have therefore disclaimed ownership from it. Similarly, where the figs are found on the road, it is assumed the owner has surrendered his ownership of them.
- (21) As all ownerless produce.
- (22) It is considered robbery because the owners do not give it up; moreover its appearance proves that it fell from this tree; but when a fig falls it is spoilt, and it is not known from which tree it fell.
- (23) If the majority of the inhabitants of that city had already trodden their dried figs in their fields, we can see, therefore, that these are also from the trodden ones, and therefore have become liable to tithe, and this liability remains even when the produce becomes ownerless.
- (24) After the round cake has been trodden, it is divided up into many slices.
- (25) This does not refer to a find, but to the case where a man had carobs on his roof. Since it was his intention to bring them up on to this roof in order to dry them, therefore their work is not complete, and their liability to tithe is not fixed by the courtyard.
- (26) Though they are already on the roof, provided they have not been thoroughly dried, and not yet heaped up there for storing (Tif. Yis.).
- (27) To the place where he spreads them out to dry; even if he has brought down much for the cattle, he is nevertheless exempt.
- (28) Which like a house determines the tithe brought there.
- (29) In the province of Tyre there sat a watchman at the entrance to the courtyard (cf. Isa. XXIII, 8). Because all the inhabitants of Tyre were princes and dwelt in royal residences, therefore out of respect for them, there was also a lodge to their court in which sat a watchman (Tif. Yis.).
- (30) I.e., in a court in which there are two houses for two men, and where one opens the entrance of the court, the second may come in and close it; similarly where one locks it, the second may object and open it, such a court is 'not

well-guarded'.

(31) A stranger.

(32) Even though he is not ashamed to eat in it.

(33) Since access is gained to the inner one through the outer one, the latter is not considered 'well guarded'.

(34) Even though he has brought the produce up to the roof by the way of the courtyard, it is nevertheless not liable to tithe, since at the time he brought them into the courtyard it was his intention to bring them up, and to eat them on the roof.

(35) Near the entrance of the courtyard.

(36) Exedra, a covered place in front of the house surrounded by three walls.

(37) A gallery from which one descends by a ladder to the courtyard.

(38) They have no roof, but the walls at the top touch one another and then gradually broaden downwards.

(39) Sort of network arrangement in the field, to store therein the fruits. Often used as a station for travellers.

(40) A booth erected in the summer and generally in the days of the sun as a shade. A shed for stacks in the field.

(41) The district of the Sea of Galilee, where the fruits are many and good, and its inhabitants make booths in which to dwell during the entire season of the fruits, which means actually the greater part of the year.

(42) Which indicates that this is their dwelling place day and night.

(43) It has two booths, one within the other; in the outer one he makes dishes etc. and sells them, and in the inner one, where he lives, he keeps and stores them.

(44) Consequently, since the potter does not live in the inner booth in the rainy season, it does not render produce liable.

(45) He holds the opinion that since the booth is a regular abode it fixes liability to tithing. The law was not according to R. Judah.

(46) Of a kind which renders produce liable for tithing.

(47) Even three taken in this manner are not considered as taken together, and are allowed.

(48) The fig-tree.

(49) Only at the top of the tree. He is allowed to eat so long as he does not descend into the courtyard.

(50) He may eat after his customary fashion, and he need not pick single berries only nor take separate slices of pomegranate and melon.

(51) Whilst it is still joined to the soil.

(52) Or, organum.

(53) It is usual for these plants to grow in gardens etc., without being sown; v. Nid. 51b.

(54) Otherwise they are ownerless property since it is their custom to grow without being sown, and exempt from tithes.

(55) From the branch which overhangs the garden.

(56) From that branch which overhangs the courtyard.

(57) This follows the principle laid down that the branches always comply with the same conditions as the root, which is the source from which the tree grows.

(58) V. Lev. XXV, 29ff, and 'Ar. 31aff, Whether or not the tree is included in the law depends on whether the roots are within or outside the bounds of the walled city.

(59) If there is a tree the branch of which is within the area allocated to the city of refuge, and the root outside the area, as soon as the murderer reaches the root, though it is outside the area, the avenger of blood may not kill him; v. Mak. 12a — b.

(60) As regards second tithe which may not be taken out of Jerusalem once it has entered the city (v. M. Sh. III, 5, 7) and the holy sacrifices which must be consumed within the wall of Jerusalem.

(61) We adopt the more stringent ruling, as is done in what appertains to the cities of refuge.

## **Mishna - Mas. Ma'aseroth Chapter 4**

MISHNAH 1. IF A MAN PICKLED,<sup>1</sup> STEWED,<sup>2</sup> OR SALTED<sup>3</sup> [PRODUCE].<sup>4</sup> HE IS LIABLE<sup>5</sup> [TO GIVE TITHE]; IF HE HID [PRODUCE] IN THE GROUND,<sup>6</sup> HE IS EXEMPT.<sup>7</sup> IF HE DIPPED IT [WHILE YET] IN THE FIELD,<sup>8</sup> HE IS EXEMPT. IF HE BRUISED OLIVES<sup>9</sup> SO THAT THE ACRID SAP MAY COME OUT OF THEM, HE IS EXEMPT. IF A MAN SQUEEZED OLIVES AGAINST HIS SKIN,<sup>10</sup> HE IS EXEMPT; IF HOWEVER, HE SQUEEZED THEM AND PUT THEM INTO HIS HAND,<sup>11</sup> HE IS LIABLE. HE THAT SKIMS [WINE PUT IN] A [COLD]<sup>12</sup>

DISH<sup>13</sup> IS EXEMPT.<sup>14</sup> BUT [IF WINE IS PUT] IN AN [EMPTY] POT, HE IS LIABLE BECAUSE IT MAY BE CONSIDERED AS A SMALL VAT.<sup>15</sup>

MISHNAH 2. IF CHILDREN<sup>16</sup> HAVE HIDDEN FIGS [IN THE FIELD] FOR THE SABBATH AND THEY FORGOT TO TITHE THEM,<sup>17</sup> THEY MUST NOT BE EATEN<sup>18</sup> AFTER THE CONCLUSION OF THE SABBATH UNTIL THEY HAVE BEEN TITHED.<sup>19</sup> IN THE CASE OF A BASKET OF FRUITS FOR THE SABBATH,<sup>20</sup> BETH SHAMMAI EXEMPT IT FROM TITHE; BUT BETH HILLEL RENDER IT LIABLE.<sup>21</sup> R. JUDAH SAYS: ALSO HE WHO SELECTS A BASKETFUL OF FIGS TO SEND AS A PRESENT TO HIS FRIEND,<sup>22</sup> MUST NOT EAT OF THEM, UNTIL THEY HAVE BEEN TITHED.

MISHNAH 3. IF A MAN TOOK OLIVES FROM THE VAT,<sup>23</sup> HE MAY DIP THEM SINGLY IN SALT, AND EAT THEM;<sup>24</sup> IF, HOWEVER, HE SALTED THEM, AND PUT THEM IN FRONT OF HIM,<sup>25</sup> HE IS LIABLE [TO GIVE TITHE]. R. ELIEZER SAID: [IF AN UNCLEAN PERSON TOOK THEM OUT] FROM A CLEAN VAT HE IS LIABLE;<sup>26</sup> FROM AN UNCLEAN [VAT]. HE IS EXEMPT BECAUSE HE IS ABLE TO RESTORE THAT WHICH IS LEFT OVER.

MISHNAH 4. ONE MAY DRINK [WINE] OUT OF THE WINEPRESS,<sup>27</sup> WHETHER<sup>28</sup> [IT IS MIXED] WITH HOT OR COLD WATER, AND BE EXEMPT [FROM TITHE]; SO R. MEIR. R. ELIEZER, THE SON OF R. ZADOK, HOWEVER, RENDERS THIS LIABLE;<sup>29</sup> WHILST THE SAGES SAY: IF MIXED WITH HOT WATER IT IS LIABLE [TO TITHE]. BUT WITH COLD WATER, IT IS EXEMPT.<sup>30</sup>

MISHNAH 5. HE WHO HUSKS BARLEY MAY HUSK EACH [GRAIN] SINGLY AND EAT<sup>31</sup> [WITHOUT TITHING], BUT IF HE HUSKED AND PUT THEM INTO HIS HAND, HE IS LIABLE [TO TITHE].<sup>32</sup> HE WHO RUBS PARCHED EARS OF WHEAT<sup>33</sup> MAY BLOW OUT [THE CHAFF OF THE WHEAT] FROM HAND TO HAND AND EAT,<sup>34</sup> BUT IF HE BLOWS AND PUTS THE GRAIN IN HIS LAP HE IS LIABLE. IF CORIANDER WAS SOWN FOR THE SAKE OF THE SEED, THE PLANT<sup>35</sup> IS EXEMPT [FROM TITHE]. BUT IF SOWN FOR THE SAKE OF THE PLANT THEN BOTH THE SEED AND THE PLANT MUST BE TITHED. R. ELIEZER SAID: AS FOR DILL, TITHE MUST BE GIVEN FROM THE SEED AND THE PLANT, AND THE PODS. BUT THE SAGES, HOWEVER, SAY: BOTH THE SEEDS AND PLANT ARE TITHED ONLY IN THE CASE OF PEPPERWORT AND ERUCA.

MISHNAH 6. RABBAN GAMALIEL<sup>36</sup> SAID: SHOOTS<sup>37</sup> OF FENUGREEK, OF MUSTARD, AND OF WHITE BEANS ARE LIABLE [TO TITHE].<sup>38</sup> R. ELIEZER SAYS: AS FOR THE CAPER-TREE, TITHES MUST BE GIVEN FROM THE SHOOTS.<sup>39</sup> THE CAPERBERRIES AND THE CAPER FLOWER.<sup>40</sup> R. AKIBA SAYS: ONLY THE CAPERBERRIES ARE TITHED SINCE THEY [ALONE] COUNT AS FRUIT.

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(1) Olives or vegetables in vinegar or in wine.

(2) **הַשׂוֹלֵק** This is a more thorough preparation than mere boiling.

(3) Many vegetables, olives etc. together.

(4) Var. lec. add: 'while yet in the field'.

(5) Any one of these acts fixed liability to tithing.

(6) Fruits which have not completely ripened on the tree are hidden in the earth, where, by means of the warmth, they ripen.

(7) I.e., he may take of it 'a chance meal'.

(8) In salt, brine or vinegar, and eats it.

(9) He crushes and pounds them so that the acrid sap should go forth from them.

(10) To anoint his skin.

(11) Because that which he puts into his hand can be considered as if he had put it into a small cistern or pit into which

the oil flows.

(12) Boiling fixes liability to tithing, v. supra I, 7.

(13) He removes the kernels which float above the wine after it has been put in a dish; when he skims it the work is complete. v. supra I, 7.

(14) Liability to tithing is not fixed here by this skimming, since the wine has been already mixed before the skimming.

(15) Before he puts the food into it he puts the wine into it and skims it, therefore it is as one skimming wine in a small tank, and is therefore liable.

(16) Whose intention usually is of no effect.

(17) On the Sabbath eve.

(18) Not even a chance meal.

(19) Sabbath fixes the liability to tithing; now since their intention to have them for the Sabbath meal has fixed the liability of them to tithing, they therefore remain forbidden for ever until they have been tithed.

(20) A basket full of fruits which has been set apart for the Sabbath.

(21) The dispute here is in the case of one who wishes to make a 'chance meal' of them before the Sabbath.

(22) This selection fixes the liability of the fruits to tithing, and he must not make a chance meal of it until it has been tithed, even if he does not eventually send it.

(23) The place where they pile up olives in order that they should become soft, and capable of exuding their oil.

(24) Normally salting itself is sufficient to fix liability to tithe, provided, however, some time is allowed for the salt to penetrate and to soften the produce; if, however, it is immediately eaten as salted, salting does not fix liability to tithing.

(25) That is, at least the two together.

(26) Since they cannot be put back: for by so doing, the olives in the vat would be defiled; the salting fixes the liability to tithing.

(27) Outside the wine-press the liability to tithing is fixed and it is forbidden to drink of the wine

(28) Whether the wine is mixed with hot or cold water.

(29) This enactment has been made by R. Eliezer as a precaution lest the wine is taken outside the wine-press, and drunk there.

(30) If mixed with hot water, the wine which is left over cannot be put back, because the wine in the press will thus be spoiled; the taking out of the wine thus fixes the liability to tithing; but if it is mixed with cold water, what is left over can be put back, hence it is exempt.

(31) One barley-corn. This applies only when it is not near the threshing-floor.

(32) Even if only three kernels are husked together he is liable (T.J.).

(33) He parches ears of corn over the fire and crushes them in his hand to remove the worthless matter.

(34) He shakes them from one hand to the other, and blows to separate.

(35) The seed is the principal and the herb or plant secondary. The plant here means the herb or foliage.

(36) Var. lec.: R. Simeon b. Gamaliel.

(37) תמרות . Either the shoots or the berries.

(38) Because they can be eaten.

(39) Its sprouts or stalks.

(40) Which protects the fruit that surrounds it.

## Mishna - Mas. Ma'aserot Chapter 5

MISHNAH 1. IF ONE UPROOTS SEEDLINGS<sup>1</sup> OUT OF HIS OWN [PROPERTY] AND PLANTS THEM [ELSEWHERE] WITHIN HIS OWN [PROPERTY]. HE IS EXEMPT FROM TITHE.<sup>2</sup> IF HE BOUGHT SUCH AS WERE ATTACHED TO THE GROUND,<sup>3</sup> HE IS EXEMPT;<sup>4</sup> IF HE GATHERED THEM IN ORDER TO SEND THEM TO HIS FELLOW, HE IS EXEMPT.<sup>5</sup> R. ELIEZER SON OF AZARIAH SAID: IF THEIR LIKE WERE BEING SOLD IN THE STREET,<sup>6</sup> THEY ARE LIABLE TO TITHE.

MISHNAH 2. IF A MAN UPROOTS TURNIPS AND RADISHES FROM WITHIN HIS OWN [PROPERTY] AND PLANTS [THEM ELSEWHERE] WITHIN HIS OWN [PROPERTY] FOR THE PURPOSE OF SEED,<sup>7</sup> HE IS LIABLE TO TITHE,<sup>8</sup> SINCE THIS WOULD BE

[CONSIDERED] THEIR HARVEST-TIME.<sup>9</sup> IF ONIONS TAKE ROOT IN AN UPPER STOREY<sup>10</sup> THEY BECOME LEVITICALLY CLEAN FROM ANY IMPURITY;<sup>11</sup> IF SOME DEBRIS FELL UPON THEM AND THEY ARE UNCOVERED,<sup>12</sup> THEY ARE REGARDED AS THOUGH THEY WERE PLANTED IN THE FIELD.<sup>13</sup>

MISHNAH 3. NO PERSON MAY SELL HIS FRUITS<sup>14</sup> AFTER THE SEASON FOR TITHING HAS ARRIVED<sup>15</sup> TO ONE WHO IS NOT TO BE TRUSTED CONCERNING TITHES, NOR IN THE SABBATICAL YEAR [MAY ONE SELL SABBATICAL YEAR PRODUCE]<sup>16</sup> TO ANYONE SUSPECTED OF [INFRINGING] THE SABBATICAL YEAR. IF ONLY [SOME] PRODUCE RIPENED,<sup>17</sup> HE TAKES THE RIPE ONES AND MAY SELL THE REMAINDER.

MISHNAH 4. A MAN MAY NOT SELL HIS STRAW,<sup>18</sup> NOR HIS OLIVE-PEAT,<sup>19</sup> NOR HIS GRAPE-POMACE<sup>20</sup> TO ONE WHO IS NOT TO BE TRUSTED IN [THE OBSERVANCE OF] TITHES, FOR HIM TO EXTRACT THE JUICE FROM THEM.<sup>21</sup> IF HE, HOWEVER, EXTRACTED THEM HE IS LIABLE TO TITHES, BUT IS EXEMPT FROM TERUMAH; BECAUSE WHEN A MAN SEPARATES TERUMAH HE HAS IN MIND THE FRAGMENTS,<sup>22</sup> AND WHAT [IS] BY THE SIDES,<sup>23</sup> AND INSIDE THE STRAW.<sup>24</sup>

MISHNAH 5. IF A MAN BOUGHT A FIELD OF VEGETABLES IN SYRIA<sup>25</sup> BEFORE THE SEASON FOR TITHING ARRIVED, THEN HE IS LIABLE TO TITHE<sup>26</sup>; AFTER THE SEASON FOR TITHING HE IS EXEMPT, AND MAY GO ON GATHERING AFTER HIS USUAL MANNER.<sup>27</sup> R. JUDAH SAYS: HE MAY ALSO HIRE WORKMEN AND GATHER.<sup>28</sup> R. SIMEON B. GAMALIEL SAYS: THIS<sup>29</sup> APPLIES ONLY IF HE HAS BOUGHT THE LAND; IF, HOWEVER, HE HAS NOT BOUGHT THE LAND, THOUGH IT WAS BEFORE THE SEASON FOR TITHING ARRIVED, HE IS EXEMPT.<sup>30</sup> RABBI SAYS: HE MUST ALSO TITHE ACCORDING TO CALCULATION.<sup>31</sup>

MISHNAH 6. IF A MAN MAKES POMACE WINE,<sup>32</sup> PUTTING WATER ON BY MEASURE, AND HE FINDS [AFTERWARDS] THE SAME QUANTITY, HE IS EXEMPT FROM GIVING TITHE.<sup>33</sup> R. JUDAH RENDERS HIM LIABLE.<sup>34</sup> IF, HOWEVER, HE FOUND MORE THAN THE SAME QUANTITY, HE MUST GIVE [TITHE] FOR IT FROM ANOTHER PLACE, IN PROPORTION.<sup>35</sup>

MISHNAH 7. IF ANT-HOLES HAVE REMAINED THE WHOLE NIGHT NEAR A PILE OF CORN WHICH WAS LIABLE TO TITHE,<sup>36</sup> THEN THESE ARE ALSO LIABLE,<sup>37</sup> SINCE IT IS OBVIOUS THAT THEY [THE ANTS] HAVE BEEN DRAGGING AWAY THE WHOLE NIGHT FROM SOMETHING [OF WHICH THE WORK] HAD BEEN COMPLETED.<sup>38</sup>

MISHNAH 8. BAALBEK GARLIC,<sup>39</sup> RIKPA<sup>40</sup> ONIONS, CICILIAN BEANS AND EGYPTIANS LENTILS (R. MEIR INCLUDES ALSO COLOCASIA, AND R. JOSE SAYS: ALSO WILD LENTILS)<sup>41</sup> ARE EXEMPT FROM TITHES<sup>42</sup> AND MAY BE BROUGHT FROM ANY MAN IN THE SEVENTH YEAR.<sup>43</sup> THE HIGHER SEED-PODS OF THE ARUM,<sup>44</sup> THE SEED OF LEEKS, THE SEED OF ONIONS, THE SEED OF TURNIPS AND RADISHES, AND OTHER SEEDS OF GARDEN PRODUCE WHICH ARE NOT EATEN, ARE EXEMPT FROM TITHES, AND MAY BE BOUGHT FROM ANY MAN IN THE SEVENTH YEAR;<sup>45</sup> AND ALTHOUGH THE STOCK FROM WHICH THEY GREW WAS TERUMAH, THEY MAY STILL BE EATEN [BY NON-PRIESTS]<sup>46</sup>.

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(1) E.g., onions or leeks which are fit to be eaten. It was customary for gardeners to uproot them and to plant them in another place, where they became thicker and broader.

(2) He may make a chance meal of them, even though they have been fixed for tithe before he plants them again, since it was his intention to sow them again at the time he uprooted them, and not to eat them.

- (3) If one buys fruits when they were still attached.
- (4) Sale fixes liability to tithe only in the case of plucked produce, but not attached.
- (5) A gift does not fix liability to tithe (v. supra IV, 2) in respect of that which is attached.
- (6) It must be considered as though their growth was complete.
- (7) So that the seed should increase and multiply in the place where it was planted in the second time.
- (8) Before he re-plants them.
- (9) Their uprooting is the final work completing their harvesting.
- (10) Where they have been stored.
- (11) The floor of the upper storey is treated like the natural ground that frees anything sown in it from Levitical impurity in accordance with Lev XI, 37.
- (12) I.e., the leaves remained uncovered.
- (13) I.e., he who plucks of them on the Sabbath is liable, and the law of the Sabbatical year and of tithes applies to them.
- (14) In an unplucked condition. This ruling is laid down on the basis of the Biblical command: 'Do not put a stumbling block before the blind', Lev. XIX, 14.
- (15) V. supra II, 2.
- (16) Under conditions defined Sheb. VIII, 3.
- (17) And thus reached the season for tithing.
- (18) Ears of corn which have been threshed out and sometimes some wheat grains remain.
- (19) The residue of the olives after they have been pressed out.
- (20) The residue of squeezed-out grapes.
- (21) From the peat and grape-pomace, and in the case of straw, to gather wheat from it.
- (22) The wheat fragments which have not yet been threshed.
- (23) The sides of the pile (store) of grain, similarly with grapes and olives; cf. supra I, 6.
- (24) Also what is in the peat, and grape-pomace.
- (25) V. Demai VI, 11; supra p. 75, n. 5.
- (26) Since at the time of liability for tithing they were under the control of an Israelite.
- (27) He is exempt from tithe even as regards that which grows whilst already in his possession. But he should not hire workmen since he might do likewise in a field which he bought before the season for tithing arrives.
- (28) V. preceding note.
- (29) That he is liable if he buys before the season for tithing arrives.
- (30) Since he possesses nothing in the actual land.
- (31) This statement reverts back to the first authority. Just as he is liable, if he bought it before the tithing season, to tithe all he had acquired, so is he liable if it was after the tithing season had arrived, to tithe according to calculation that which has grown whilst in his possession; e.g., if the produce had reached only one-third of its normal growth at the time of the purchase (v. supra I, 3) he must tithe the two-thirds which grew after it came into his possession.
- (32) He puts water upon the lees of wine which is untithed so as to obtain the taste of wine from it.
- (33) Because it is mere water, though it has slightly absorbed the appearance and taste of wine from the husks and kernels.
- (34) Because its appearance and taste determine its status as wine, v. B. B. 96b.
- (35) I.e., he can even give tithe for it from other wine according to the proportion of the wine he found more than the measure of water he had put in it.
- (36) Cf. supra I, 6.
- (37) The produce which is found inside the holes is liable both to teruma and tithe.
- (38) Since it was near the pile.
- (39) Enbekhi, later Heliopolis, an ancient city of Syria, v. 'A.Z. 11b. Aliter: weeping garlic, i.e., the garlic is so pungent that it makes the eyes water.
- (40) A tuberous rooted plant used for dyeing Aliter: a name of a place.
- (41) Kind of lentil.
- (42) Because they grow wild.
- (43) Even from one who is normally suspected of selling fruits in the Sabbatical year.
- (44) It is classified with onions and garlic.
- (45) Because all these are not considered food.

**(46)** I.e., although the seedlings from which they grew were terumah (cf. supra 1) and the law is that what grows out of terumah is terumah, these species may be eaten even by non-priests, since they are not considered food.